

MDR Tracking Number: M5-04-0952-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 12-1-03.

The IRO reviewed office visits, electrical stimulation, neuromuscular re-education, chiropractic manual treatment (spinal), manual therapeutic technique, and vasopneumatic device on 12-2-02, 6-17-03, 7-22-03, 8-13-03, and 8-19-03.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this Order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 4-7-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice. The requestor failed to submit relevant information to support components of the fee dispute in accordance with Rule 133.307(g)(3)(A-F). Therefore, no review can be made and no reimbursement recommended.

### ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for dates of service 12-2-02, 6-17-03, 7-22-03, 8-13-03, and 8-19-03 in this dispute.

This Order is hereby issued this 4<sup>th</sup> day of May 2004.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

April 12, 2004

**NOTICE OF INDEPENDENT REVIEW DECISION  
Corrected Letter**

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\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). \_\_\_ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to \_\_\_ for independent review in accordance with this Rule.

\_\_\_ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the \_\_\_ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The \_\_\_ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to \_\_\_ for independent review. In addition, the \_\_\_ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 41 year-old female who sustained a work related injury on \_\_\_. The patient reported that while at work she was lifting rolls of paper weighing 45-90 lbs each, she began to experience pain in her neck, arms and shoulders. A CT scan of the cervical spine dated 1/11/00 indicated C2-3 mild disc bulge, anterior degenerative spurring at C5-6, and straightening of the cervical curvature. The patient underwent an EMG/NCV study on 3/30/00 that indicated bilateral carpal tunnel syndrome. An MRI of the thoracic spine dated 11/15/00 showed a 2mm focal bulging disc to the left of mid line at C6-7, and a 3mm focal bulging versus protrusion of the disc were noted to the right of mid line at T9-T10. On 6/6/01 the patient underwent an MRI of the right shoulder that showed a 4mm partial thickness supraspinatus tear anteriorly 1 cm superior to insertion, and minimal fluid contacting and paralleling supraspinatus tendon consistent with tendonitis. The diagnoses for this patient have included rotator cuff syndrome, post surgical, brachial radiculitis rule out cervical herniated nucleus pulposus, cervical discogenic syndrome, thoracic spine pain, erector spinae myalgia, lumbar segmental dysfunction, and headache. Treatment for this patient's condition has included manipulation, joint mobilization, myofascial release, massage and diathermy, and trigger point injections.

Requested Services

Office visit, electrical stimulation, neuromuscular reeducation, chiropractic manual treatment-spinal, manual therapeutic technique, vasopneumatic device 12/2/02, 6/17/03, 7/22/03, 8/13/03, and 8/19/03.

### Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

### Rationale/Basis for Decision

The \_\_\_ chiropractor reviewer noted that this case concerns a 41 year-old female who sustained a work related injury to her neck, arms and shoulders on \_\_\_. The \_\_\_ chiropractor reviewer also noted that the diagnoses for this patient have included rotator cuff syndrome, post surgical, brachial radiculitis rule out cervical herniated nucleus pulposus, cervical discogenic syndrome, thoracic spine pain, erector spinal myalgia, lumbar segmental dysfunction, and headache. The \_\_\_ chiropractor reviewer further noted that the treatment for this patient's condition has included manipulation, joint mobilization, myofascial release, massage and diathermy, and trigger point injections. The \_\_\_ chiropractor reviewer indicated that the patient was deemed to be at maximum medical improvement and noted to have probable residual symptoms. The \_\_\_ chiropractor reviewer explained that because this patient's condition was not curable, the patient was treated with a multi disciplinary approach that would offer her periodic relief. The \_\_\_ chiropractor reviewer also explained that this patient was not a surgical candidate and that injections only offered temporary relief. The \_\_\_ chiropractor reviewer noted that the patient did get noticeable relief of her pain for several days up to a few weeks with treatment rendered. The \_\_\_ chiropractor reviewer explained that the treatment this patient received was to relieve pain and was medically necessary. Therefore, the \_\_\_ chiropractor consultant concluded that the office visit, electrical stimulation, neuromuscular reeducation, chiropractic manual treatment-spinal, manual therapeutic technique, vasopneumatic device 12/2/02, 6/17/03, 7/22/03, 8/13/03, and 8/19/03 were medically necessary to treat this patient's condition.

Sincerely,